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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.06.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.R.P.(MD)(NPD)Nos.324, 533 of 2005 and 780 of 2011,
M.P(MD)No.1 of 2007, M.P(MD)Nos.1 and 3 of 2014,
C.M.P(MD)Nos. 744 of 2005, 745 of 2005, 9015 of 2016 and 7221 of 2023 in CRP(MD)No.324 of 2005,
M.P(MD)Nos.2 and 3 of 2011 in CRP(MD)No.780 of 2011,
M.P(MD)No. 1 of 2010 in CRP(MD)No.533 of 2005
and M.P(MD)No.1 of 2014 in Rev.APLC.No.SR.14355 of 2014

In C.R.P(MD)No.324 of 2005:

1.Hafiz Moulavi O.M.S.Abdul Basith (died)...1st Petitioner/Plaintiff
2. Moulavi O.M.V.Uthuman ... Petitioner No.2/the Legal Heir of the deceased 1st petitioner

(2nd petitioner is brought on record as Legal Representatives of the deceased 1st petitioner vide order dated 23.01.2014 made M.P(MD)No.1 of 2012 in C.R.P.(MD)No.324 of 2005)

Vs.

1.O.M.S.Sheik Udhuman Alim Sahib
2.The Chief Educational Officer,
Tirunelveli District,
Palayamkottai. ....Respondents 1 and 2/Respondents/Defendants
3.Hafiz Moulavi O.M.S.Hasam Magdoom Alim Sahib
...3rd Respondent

(R3 is impleaded as per the order dated 21.03.2014 made in M.P(MD)No.2 of 2014 in C.R.P(MD)NO.324 of 2005 by TMJ).

PRAYER: This Civil Revision Petition is filed under Article 227 of the

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Constitution of India and Section 83 of Wakf Act, 1995 against the judgment and decree dated 01.11.2004 made in O.S.No.173 of 2000 on the file of the Wakf Tribunal and Principal Subordinate Court, Tiruneveli.

For Petitioner : Mr.V.Meenakshi Sundaram
For R2 : Mr.Senthil Ayyanar
Government Advocate
For R1 : Mr.T.S.Mohamed Mohideen

In C.R.P(MD)No.533 of 2005:

O.M.S.SHaik Udhuman Alim Sahib ... Petitioner/1st Defendants

Vs.

1.Hafiz Moulavi O.M.S. Abdul Basith Alim Sahib
2. The Chief Educational Officer,
Tirunelveli District,
Palayamkottai. ....Respondents 1and 2/Plaintiff and 2nd Defendant

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India against the findings of the learned Wakf Tribunal (Principal Subordinate Judge), Tirunelveli against the petitioner dated 01.11.2004 in O.S.No.173 of 2000.

For Petitioner : Mr.T.S.Mohamed Mohideen
For R1 : Mr.V.Meenakshi Sundaram
For R2 : Mr.Senthil Ayyanar
Government Advocate

In C.R.P(MD)No.780 of 2011:

Kadayanallur Lebbai Sahib Muslim Jamath,
At Present Kadayanallur Lebbai Sahib Mulim
Jamath Mahajana Sabha (Melakandchi),
Represented by its President Sri Hafiz Moulavi
O.M.S.Abdul Basith Alim Sahbi ... Petitioner/Plaintiff

Vs.

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1.The State of Tamilnadu by
The District Collector,
Tirunelveli – 627 009

2. The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.

3.The District Educational Officer,
Tenkasi, Tirunelveli District.

4.O.M.S.Sheik Uthuman Alim Sahib

5.O.M.S.Hasan Makdoom

6.School Committee,
Masood Thaika Higher Secondary School,
Kadayanallur,
Tenkasi Taluk, Tirunelveli District ... Respondents/Defendants

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India r/w Proviso to Sub-Section 9 of Section 83 of Wakf Act, 1995, against judgment and decree dated 07.03.2011 passed in O.S.No.34 of 2007 on the file of the Wakf Tribunal cum Principal Sub-Judge, Tirunelveli.

For Petitioner : Mr.V.Meenakshi Sundaram
For R5 & R6 : Mr.T.S.Mohamed Mohideen
For R1, R2 & R3 : Mr.Senthil Ayyanar
Government Advocate

M.P(MD)No.1 of 2014 in Rev.APLC.No.SR.14355 of 2014 and Rev.APLC.No.SR.14355 of 2014

Hafiz Moulavi O.M.S.Hasan Magdoom Alim Sahib
... Petitioner/3rd party

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Vs.

1.Moulavi O.M.A.Uthuman Mydeen
... 1st Respondent/2nd Petitioner/2nd Petitioner
2.O.M.S.Sheik Udhuman Alim Sahib

3. The Chief Educational Officer,
Palaymkottai,
Tirunelveli District. ... 2 and 3 Respondents/Respondents 1 & 2/
Respondents 1 & 2

PRAYER in M.P(MD)No.1 of 2014: This Miscellaneous Petition is filed under Section 151 of C.P.C to grant leave to the petitioner to file review application.

PRAYER in Rev.Apl.SR.No.14355 of 2014: This Review Application is filed under Under 47 Rule 1 r/w Section 114 of C.P.C. Seeking to review the order passed by this Court in M.P(MD)No.1 of 2012 in C.R.P(MD)No.324 of 2005 dated 23.01.2014.

For Petitioner : Mr.T.S.Mohamed Mohideen
For R1 : Mr.V.Meenakshi Sundaramr
For R3 : Mr.Senthil Ayyanar
Government Advocate

C O M M O N O R D E R

C.M.P(MD)No.7221 of 2023 in CRP(MD)No.324 of 2005 is filed to pass an order to revoke the vakalat filed by the earlier counsel and accept the fresh vakalat filed on behalf of the second petitioner by Mr.V.Meenakshi Sundaram, learned counsel. This petition is allowed.

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2. The second petitioner has filed an affidavit dated 22.06.2023 as attested by a Notary Public as well as seeking to withdraw the main case in C.R.P.(MD)No.324 of 2005. Being satisfied with the reasons stated in the affidavit, C.R.P(MD)No.324 of 2005 is dismissed as withdrawn. The affidavit filed by the second revision petitioner on 22.06.2023 will also stand as a part and parcel of this order.

3.The learned counsel for the petitioner in C.R.P(MD)No.533 of 2005 submitted that in view of the withdrawal made by the learned counsel for the petitioner in C.R.P(MD)No.324 of 2005, C.R.P(MD)No. 533 of 2005 may also be closed. In view of the same, C.R.P(MD)No.533 of 2005 is closed. The learned counsel for the petitioners in both the Civil Revision Petitions have made an endorsement.

4. The learned counsel for the petitioner in C.R.P(MD)No.780 of 2011 would submit that substituted petition to substitute the second petitioner in the place of the deceased first petitioner may be allowed. Hence, M.P(MD)No.1 of 2012 is allowed. The learned counsel for the

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petitioner in C.R.P(MD)No.780 of 2011 also seeks permission of this Court to withdraw this petition and he has also made an endorsement to that effect.

5. This Court is inclined to make an observation that the second revision petitioner by name, Moulavi O.M.A.Uduman Mydeen is personally present before this Court at the time of passing of this common order.

6. In view of the orders passed in the Civil Revision Petitions, M.P(MD)No.1 of 2014 in Rev.Aplc(MD) NO.14355 of 2014 is also dismissed and Rev.Aplc(MD) SR.No.14355 of 2014 is rejected at SR stage itself.No costs. Consequently, connected miscellaneous petitions are closed.

22.06.2023

Internet: Yes/No
Index : Yes/No
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L.VICTORIA GOWRI. J.,

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